

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

**Donald Wayne Martin,**

**Civil No. 07-1777 MJD/SRN**

**Plaintiff,**

**v.**

**ORDER**

**Warden Connie Roehrich,  
Officer Clifford, and  
Officer Olson,**

**Defendants.**

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The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Susan Richard Nelson dated April 6, 2007. No objections have been filed to that Report and Recommendation in the time period permitted.

Based on the Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein,

IT IS HEREBY ORDERED that:

1. This action is **DISMISSED** pursuant to Fed. R. Civ. P. 12(h)(3), for lack of subject matter jurisdiction;
2. Plaintiff's "Application to Proceed Without Prepayment of Fees," (Docket No. 2), is **DENIED**;
3. Plaintiff's "Motion To Subpoena And Depose Defense Witnesses," (Docket No. 6), is **DENIED**;
4. Plaintiff's "Motion For Counsel," (Docket No. 7), is **DENIED**; and

5. Plaintiff is required to pay the unpaid balance of the statutory filing fee, namely \$325.26, in accordance with 28 U.S.C. § 1915(b)(2).

DATED: May 2, 2007.

s/Michael J. Davis

Michael J. Davis  
United States District Court Judge